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Background: Constitutional Crises

Politics & Government 2009

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While Perak looks set to head towards a possible constitutional crisis with the disputed status of its Changkat Jering and Behrang assemblymen, the situation is not the first of its kind in the country.

**Sarawak in 1966**

Sarawak's first Iban Chief Minister Stephen Kalong Ningkan was initiating land reform law to give the natives in the interior rights to acquire full title to Native Customary Land, which would enable them to sell their land rights to whomever they wished. The law, when passed, would also enable them to gain rights to large tracts of valuable forest land.

This resulted in some assemblymen, with the alleged backing from the Federal Government, issuing a statement that expressed no confidence in Ningkan. This prompted Prime Minister Tunku Abdul Rahman to demand his resignation. Ningkan refused, and was removed by the Governor. He took the case to the High Court of Borneo and was reinstated as the Chief Minister as the court decided that once appointed, a Chief minister may not be removed by the Governor unless the state assembly passes a motion of no confidence against him. Ningkan had planned to call for a snap election upon his reinstatement, but before he could do so, the Federal Government imposed a state of emergency in Sarawak citing chaos in the state.

Tawi Sli, another Iban, was appointed Chief Minister. When the General Election was held in Sarawak in 1970, Rahman Yakub took over the helm.

**Kelantan in 1978**

Kelantan's Pas-Umno coalition government in 1974-1978 faced a crisis when Pas president Asri Muda tried to oust Menteri Besar Datuk Mohammed Nasir, who represented Pas but was Umno-backed. Nasir was not the pick of the party's leadership but was appointed by the then Prime Minister Tun Abdul Razak.

Nasir had refused to step down after the motion of no confidence was passed against him in the State Assembly. This resulted in demonstration in Kota Bharu and the Federal Government stepped in and declared a state of emergency in Kelantan. Emergency was lifted on Feb 12, 1978 and shortly after a state election was called. Nasir by then had formed his own party Berjasa and went on to win some seats. Pas was ousted and only made a comeback in 1990.

**Sabah in 1984 & 1994**

Datuk Seri Joseph Pairin Kitingan's Parti Bersatu Sabah (PBS) garnered 25 out of the 48 state seats. His rival Datuk Haris Salleh of Berjaya persuaded the Governor to appoint him instead of Pairin. Initially Haris was appointed but the Yang di-Pertua later retracted the appointment and appointed Pairin.

Pairin called for a snap election in 1986 and his party won convincingly, taking 34 out of the 48 seats. The party was later admitted into Barisan Nasional. It then pulled out in 1990.

In the 1994 election, PBS won 25 state seats while its opponents won 23. Pairin, who held a 36-hour vigil outside the Yang di-Pertua's residence, was sworn in as Chief Minister but later resigned when his party was hit by a series of defections that resulted in PBS having only five seats.

**Semangat 46 in 1992**

On March 27 and April 10, 1991, two of Semangat 46's Kelantan state assemblymen Nordin Salleh and Wan Mohamed Najib Mohamed of Sungai Pinang and Limbongan quit the party and joined Umno.

On April 25, Kelantan State Assembly passed an amendment to the State Constitution, which forces a state assemblyman to lose his seat and declared vacant if he quit the party or is sacked. The amendment took effect retrospective to Nov 18, 1990 – the day Pas formed the state government.

Both the assemblymen took the matters to court and also declared that they were not, at all times, Semangat 46 members.

After the High Court had dismissed the suit from the duo to restrain the Election Commission from declaring and holding a by-election, by-elections were held on Aug 24, which was won by Semangat 46 candidates Mahmud Yaakub (Sungai Pinang) and Samat Mamat (Limbongan). The two new assemblymen were sworn in while the High Court granted an ex-parte injunction restraining them from taking office.

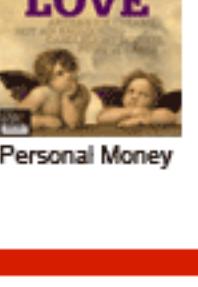
Mahmud and Samat then filed a summons-in-chambers to set aside the ex parte injunction. On Jan 22, 1992, the High Court ruled that Nordin and Wan Najib are still the assemblymen for Sungai Pinang and Limbongan. The Supreme Court also upheld the decision.

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